IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 3191(SS) of 2001

Suresh Charndra Sharma,
S/o late Sri Rishal Singh Sharma,
Divisional Accountant (Retired)
U.P. Jal Nigam,
R/o 4, Khadri Mohalla,
Near Saharanpur Chawk,
Dehradun, Uttaranchal. **.....Petitioner.**

Versus

1. U.P. Jal Nigam ,through Managing Director, 6, Rana Pratap Marg, Lucknow.
2. Finance Director, U.P. Jal Nigam, 6, Rana Pratap Marg, Lucknow.
3. Executive Engineer, Construction Division, U.P. Jal Nigam, Hardwar, Uttaranchal.
4. Executive Engineer, (Drawing & Disbursing Officer) U.P. Jal Nigam, Dehradun.

.....Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri Pankaj Purohit, learned counsel for the petitioner and Sri Sudhir Singh, learned counsel for respondents no. 1 and 2.

Petitioner, who was employee of U.P. Jal Nigam, retired from service on 30.09.2000. Petitioner was not paid the post retirel benefits, consequently, he was constrained to file the present writ petition, for the following feliefs:

1. *issue a writ order or direction in the nature of Mandamus directing the respondents to immediately make payment of gratuity and commutation pension to the petitioner as admissible to him according to Rules with interest at the rate of 18% per annum till the actual realization from the date of retirement.*

2. *issue a writ order or direction in the nature of Mandamus directing the respondents to pay ex gratia bonus for the year 1999 – 2000 and 2000- 2001 to the petitioner along with interest on the aforesaid rate.*

3. *issue any other writ, order or direction in the nature of which, this Hon'ble court may deem fit and proper in the circumstances of this case.*

4. *award the cost of this petition.*

This court on 23.06.2001 directed the respondents either to pay dues of the petitioner or show cause.

After passing of this order by this court, respondents have paid all the post retirel dues, however, an application has been moved by the petitioner after payment of retirel dues that sum of Rs. 11,630/- which is due for payment to the petitioner has not been paid by the respondents. Break up of the aforesaid amount is Rs. 4257/- which has been withheld as vehicle advance, Rs. 3000/- has been withheld in pursuance to the Government Order dated 28.07.1989, which provides that prior to granting the gratuity of employee a sum of Rs. 3000/- or a month's salary whichever is less shall be deducted so that recovery, if any, is made from the aforesaid amount, however, the said amount shall not be deducted in any case after two months of retirement of employee, and Rs. 4,373/- has been withheld as exgratia bonus for the year 1999-2000 and 2000-01.

The submission of the petitioner is that while issuing last pay certificate for the purpose of pension, it is specifically mentioned in the last pay certificate that there is no recovery pending against the petitioner. He has annexed the aforesaid certificate to the application filed by him on 8.03.2002. Thus, his contention that respondents are not justified in

withholding the amount of Rs. 4257/- as vehicle advance as the whole amount has been repaid by the petitioner and further there is no dues of department against the petitioner.

In the circumstances aforesaid, I direct the respondent no. 2 to make payment of Rs. 4,257/- which has been withheld against vehicle advance and Rs. 3000/- which has been withheld in pursuance to the Government Order dated 28.07.1989, in case, vehicle advance is repaid by the petitioner and there is no due of the department against the petitioner. Further respondent no. 2 is directed to make payment of ex gratia bonus amounting to Rs. 4,373/-, in case, other employees of the department have received the same for the year 1999-2000 and 2000-01 within a period of two from the date of production of certified copy of this order.

With this direction, with petition is finally disposed of. Accordingly, stay application no. nil of 2001 and misc. application no. 370 of 2002 are disposed of. No order as costs.

(M.M. Ghildiyal, J)

March 6, 2007
Sksharma